

**THIS DISPOSITION
IS NOT CITABLE AS PRECEDENT
OF THE T.T.A.B.**

Paper No. 20
ejs

10/30/00

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re **Global Trading Network, Ltd.**

Serial No. 75/216,572

**Gary L. Hahn of Gary L. Hahn, P.C. for Global Trading
Network, Ltd.**

Barbara Brown, Trademark Examining Attorney, Law Office **102**
(Thomas Shaw, Managing Attorney)

Before Seeherman, Walters and Holtzman, Administrative
Trademark Judges.

Opinion by Seeherman, Administrative Trademark Judge:

Global Trading Network, Ltd. has appealed the final
refusal of the Trademark Examining Attorney to register
GLOBAL TRADING NETWORK as a service mark for "brokerage in
the fields of real estate and antiques."¹ Registration has
been refused pursuant to Section 2(e)(1) of the Trademark

¹ Application Serial No. 75/216,572, filed December 20, 1996,
and asserting a bona fide intent to use the mark in commerce.

Act, 15 U.S.C. 1052(e)(1), on the ground that applicant's mark is merely descriptive of its identified services.

Applicant has filed an appeal brief and a supplemental appeal brief,² and the Examining Attorney has filed a brief. Applicant did not file a reply brief, and an oral hearing was not requested.

A mark is merely descriptive, and therefore unregistrable pursuant to Section 2(e)(1) of the Act, if it immediately conveys information concerning a quality, characteristic, function, ingredient, attribute or feature of a product or service. It does not have to describe every one of these. It is enough if it describes a single, significant quality, feature, function, etc. Moreover, the question of whether or not a particular term is merely descriptive is not decided in a vacuum but in relation to the goods on which, or the services in connection with which, it is used. **In re Venture Lending Associates**, 226 USPQ 285 (TTAB 1985).

It is the Examining Attorney's position that the plain meaning of the phrase GLOBAL TRADING NETWORK, when used in

² After the filing of applicant's appeal brief the application was assigned to a new Examining Attorney, who requested remand of the application in order to make additional evidence of record. This request was granted, as a result of which applicant was allowed to file a supplemental appeal brief directed to the new evidence.

connection with brokerage in the fields of real estate and antiques, immediately conveys information about a characteristic of applicant's services, namely, that applicant buys and sells real estate and antiques internationally by means of connecting sellers of real estate or antiques with purchasers of real estate and antiques. The Examining Attorney, in support of this position, points to certain dictionary definitions which were made of record, including the following:

Global: of, pertaining to, or
involving the entire earth: WORLDWIDE³

Trade: to engage in buying and selling
for profit;⁴

Network: any widespread, highly
organized system or activity: a *crime
network*;⁵ to make connections among
people or groups of a like kind;⁶ an
extended group of people with similar
interests or concerns who interact and
remain in informal contact for mutual
assistance or support⁷

We agree with the Examining Attorney that GLOBAL TRADING NETWORK is merely descriptive of brokerage in the field of real estate. When these individual words are combined in the phrase GLOBAL TRADING NETWORK, and that

³ WEBSTER'S II New Riverside University Dictionary.

⁴ WEBSTER'S II New Riverside University Dictionary.

⁵ The Random House College Dictionary.

⁶ New Riverside University Dictionary.

⁷ The American Heritage Dictionary of the English Language, 3d ed. © 1992.

phrase is used in connection with real estate brokerage services, the mark immediately conveys to purchasers and prospective purchasers that the real estate brokerage services are offered internationally by means of a network. In this connection, we note that the Examining Attorney has submitted evidence from the NEXIS data base showing that the public has been exposed to the idea that real estate brokers work through network arrangements. For example:

Sullivan Group of Florida has joined RealSource Group Inc., a network of commercial real estate brokerages around the country.
"The Orlando Sentinel," October 4, 1999

In addition to the yard sign and advertising in local newspapers, your Realtor has many additional resources such as a strong network with other Realtors, real estate books, existing buyers, the Internet and the multiple listing service.
"50 Plus Lifestyles," September 1, 1999

"Prudential owns one of the largest real estate networks in the country," Magruder comments. "it's an affiliate franchise network, so we don't own the individual offices...
"Employee Benefit News," September 1, 1999

Christies' Great Estates is the largest network of independent real-estate brokers specializing in the sale of luxury properties.
"Press Journal," August 8, 1999

Applicant seems to argue that the mark does not describe its actual services because it itself is not part of a network, and most of its activities "in rendering its brokerage services are probably not 'Trading' in the strict sense of the definition of the word 'Trading,' as it was cited by the Examining Attorney," appeal brief, p. 6. Applicant also appears to suggest that "Global" is not really applicable to its services because it has only a single shareholder, officer and employee, Robert Bykowski, who conducts the brokerage service from his home, and the majority of its business occurs in the United States.

We are not persuaded by applicant's argument. Applicant has identified its services as "brokerage in the field of real estate and antiques," and we must determine the question of descriptiveness with respect to the identified services. This is particularly appropriate in this case because, although applicant has discussed how its business operates, its application was based on an intention to use the mark, and no amendment to allege use has been submitted.

In addition, applicant's statements regarding its operations show that it "has performed its brokerage services in connection with purchases of goods and/or real estate in countries other than the United States of

America." Appeal brief, p. 3. Applicant's real estate brokerage services certainly constitute "trading." The various activities applicant describes in its appeal brief at p. 7, e.g., helping its client put together an offer or an acceptance for a contract of purchase, are part of the process of buying and selling for profit. Further, even if applicant performs additional activities, as we stated above, it is sufficient if a term describes a single significant characteristic of the goods or services in order to support a finding that the term is merely descriptive.

Applicant also performs its services through a network: Mr. Bykowski is a member of the Ann Arbor Area Board of Realtors, which is an organization of the Realtors and real estate brokers in the local area. This Board publishes on a weekly basis certain books and computer data through the Multiple Listing Service, which lists and describes the real estate which is for sale in the local area. As a member of the organization, Mr. Bykowski can receive copies of these weekly books and has access to the computer data. Mr. Bykowski can also submit information to the Multiple Listing Service in order to sell applicant's clients' real estate. Further, when applicant's customers wish to sell or buy real estate outside the market area of

the Ann Arbor Board of Realtors, Mr. Bykowski, as a licensed Realtor and real estate broker, can access market information from other Boards of Realtors. Thus, applicant, through Mr. Bykowski, is part of a network consisting of both the Ann Arbor Board of Realtors and a larger group of realtors outside the Ann Arbor area.⁸ Applicant would limit a "network" to a company which has many offices which are all part of the same business entity or organization, or a group of separate companies which are linked by contract, franchise or other formal or technical affiliation, or a group of offices or persons which are connected by a private electronic or other limited-access communications linkage to do business primarily with each other. Supplemental brief, pp. 12-13. Even if we were to accept applicant's position, we think that its connection with the Ann Arbor Board of Realtors would constitute such an affiliation. Thus, applicant's analogies to independent companies taking advantage of information from the Internet, etc., but not being part of a network, are inapposite.

⁸ In view of the evidence showing that applicant's real estate trading activities are both international and performed through a network, we see no need to remand the application to the Examining Attorney to consider a refusal based on deceptive misdescriptiveness.

Accordingly, the mark GLOBAL TRADING NETWORK not only describes the services as identified in the application, but the services which in fact are rendered by applicant.

Applicant also argues that GLOBAL TRADING NETWORK is a broad, general term that includes many categories of goods and is too vague to convey an immediate idea of the characteristics of applicant's identified services. It is true that the phrase GENERAL TRADING NETWORK has been used in a number of contexts, as shown by the various NEXIS excerpts submitted by the Examining Attorney.⁹ However, our determination as to whether the phrase is merely descriptive is based on how consumers of the identified services would view it; therefore, we must consider the term not in the abstract, or as it is used in connection with securities brokerage, banking, etc. (applicant's supplemental brief, p. 8), but in connection with real estate brokerage services. As used in that context, for

⁹ As an aside, we are dismayed by the number of NEXIS excerpts submitted by the Examining Attorney. According to the search cover sheet, the search retrieved 190 "hits," and the Examining Attorney submitted 80 of them. We have previously stated that the submission of such a large number of articles is not only unnecessary, but it is burdensome to the Board to have to review them. It is the far better practice to submit a representative sample, indicating that this is the case. In addition, a large number of the excerpts are taken from wire service reports. Since there is no indication that these reports were ever published, these excerpts are of no value in terms of showing public exposure to the use of the term involved, and we have not considered them in reaching our decision herein.

the reasons discussed above, we find that applicant's mark GLOBAL TRADING NETWORK is merely descriptive of the service of brokerage in the field of real estate.

In view of this finding, and since a refusal on the ground of mere descriptiveness must be affirmed if a mark is found to be merely descriptive of any of the goods or services in a particular class, we need not discuss whether GLOBAL TRADING NETWORK is merely descriptive in connection with the applicant's brokerage services in the field of antiques.

Decision: The refusal on the ground that GLOBAL TRADING NETWORK is merely descriptive of "brokerage in the fields of real estate and antiques" is affirmed.

E. J. Seeherman

C. E. Walters

T. E. Holtzman
Administrative Trademark Judges
Trademark Trial and Appeal Board

TWORK is merely descriptive of real estate brokerage services, it is merely descriptive of brokerage in the field of antiques,

Applicant has explained that it is a small Michigan corporation which has only one shareholder, Robert Bykowski, who is also the sole officer and employee of the corporation. Although the application was based on an intention to use the mark in commerce, and no amendment to allege use has been filed, applicant states that it operates in the field of real estate brokerage and the brokerage of antiques. Applicant's business is conducted by Mr. Bykowski from his home, and its goal "has been to expand the capability of the corporation so that it could, when needed, perform brokerage services in broader geographic areas than is normally done by small-town brokers." Brief, p. 3. Although the majority of applicant's services have been performed in, and relate to, goods and real estate in the local areas near its place of

business, applicant has also performed its brokerage services in countries other than the United States.

Applicant buys and sells real estate and antiques as an agent for the benefit of or on behalf of others, and acts as a broker for the buying and selling of real estate and antiques.

Mr. Bykowski is a member of the Ann Arbor Area Board of Realtors, which is an organization of the Realtors and real estate brokers in the local area. This Board publishes on a weekly basis certain books and computer data through the Multiple Listing Service, which lists and describes the real estate which are for sale in the local area, and as a member of the organization, Mr. Bykowski can receive copies of these weekly books and has access to the computer data. Mr. Bykowski can also submit information to the Multiple Listing Service in order to sell applicant's clients' real estate. Further, when applicant's customers wish to sell or buy real estate outside the market area of the Ann Arbor Board of Realtors, Mr. Bykowski, as a licensed Realtor and real estate broker, can access market information from other Boards of Realtors.

Mr. Bykowski, as a Realtor and real estate broker, can also obtain information about real estate through trade

journals, mailings, and through regional, statewide, and national brokers.

With respect to its antique brokerage services, applicant, through Mr. Bykowski, has various sources of information for buying and selling antiques. These include trade groups, trade journals, other brokers, both local, state, national and in other countries, advertisements and lists which are available to brokers in the marketplace for antiques.

The Examining Attorney has also submitted excerpts from a large number of articles taken from the NEXIS data base. Before discussing this evidence we think it necessary to comment on the amount of material which has been made of record. One of the searches, for the phrase "global trading network," retrieved 190 stories, and the Examining Attorney submitted 80 of them. As we have frequently stated, the submission of such a large number of stories is unnecessary, and creates needless work for the Board. It is sufficient if the Examining Attorney submits a smaller number, and simply indicates that it is a representative sample. It is particularly disturbing to us that so many of the excerpts have been taken from wire service reports. Because there is no indication as to whether these reports

ever appeared in print, they do not show public exposure to the phrase "global trading network" or, with respect to the second search, the use of "network" in connection with "real estate" or "antique," and therefore we have not considered them in reaching our decision herein. Further, we note that many of the excerpts submitted are irrelevant to the issue under consideration, and were apparently retrieved merely because the searched words appeared within five words of each other in the excerpt, e.g., "the plans use networks of lawyers to handle estate planning, real estate transactions"; "Anderson is a housing and development consultant with a wide network of friends in politics and real estate." It has been frequently recognized that the NEXIS system is able to retrieve a wide variety of information; however, the mere fact that something has been retrieved should not be the only criterion for making it part of the file.

The actual articles which are of record, however, show that the public has been exposed to references to "networks" in connection with real estate services. For example,

Sullivan Group of Florida has joined
RealSource Group Inc., a network of
commercial real estate brokerages
around the country.
"The Orlando Sentinel," October 4, 1999

In addition to the yard sign and advertising in local newspapers, your Realtor has many additional resources such as a strong network with other Realtors, real estate books, existing buyers, the Internet and the multiple listing service.
"50 Plus Lifestyles," September 1, 1999

PETCO worked with ChainLinks, a national network of real-estate brokers....
"Chain Store Age Executive," September 1999

"Prudential owns one of the largest real estate networks in the country," Magruder comments. "it's an affiliate franchise network, so we don't own the individual offices....
"Employee Benefit News," September 1, 1999

ERA Franchise Systems Inc., one of the largest residential real-estate networks in the world....
"Press Journal,," August 15, 1999

Christies' Great Estates is the largest network of independent real-estate brokers specializing in the sale of luxury properties.
"Press Journal," August 8, 1999

...Re/Max, which says it's the largest real estate network in the world measured by closed transactions.
"The Denver Post," July 25, 1999

Even without these materials, however, the excerpts indicate that the phrase "global trading network" is used

to refer to a variety of trade arrangements, as shown
below:

...says Bob Shaw, CEO and chairman of World Commerce Online, the company building Floraplex, an Internet global trading network that ultimately will connect thousands of flower retailers, wholesalers, and growers. Floraplex plans to let wholesalers bid on flowers and make payments directly to the growers.

"InformationWeek," May 31, 1999

"The 12 percent spurt in export sales made the Twin Cities a real hot spot in the global trading network," Douglas Petty, the international business consultant who prepared the analysis, said in a prepared statement.

Only Seattle and San Jose, Calif., posted greater dollar growth in exports than the Twin Cities, the report said.

"Star Tribune," October 16, 1997

Can stock will be sourced from Japan, the United States, Australia and Europe through the global trading network of Mitsubishi Corp.

"American Metal Market," June 11, 1997

Chinese merchants sailing on junks reached Calcutta and other Indian ports on the Bay of Bengal sometime between the 12th and 14th centuries. It is true that Venetian, Spanish, Portuguese, Dutch, and English merchants participated in this global trading network.... Owing to geography, Japan found itself at the periphery of the Asian global trading network, and precisely because of this peripheral location it has been able to retain its independence throughout its history.

"The Economist," (U.S. ed.), March 22, 1997

At Siebert he instituted a global trading network in Tokyo and London, and was responsible for developing a customer base of over 600 public and corporate pension fund clients.

"Investment Dealers' Digest," July 6, 1992

. The second search was for references to the word "network" found within five words of either "real estate" or antique." This search retrieved over 4500 stories, and the Examining Attorney submitted 30 of them